IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUAGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 26343 of 2003

Between:

1. Ch. Prakash, S/o. Gangaiah, Makkaraj Pet (V & P), Chegunta Mandal, Medak District.

..... PETITIONER.

AND

1.The Chief Managing Director, Andhra Pradesh Central Power Distribution Corporation Ltd., Red Hills, Hyderabad.
2.The Superintending Engineer (Operation) Circle, Medak, Andhra Pradesh Central Power Distribution Corporation Ltd.,

Hqrs. at Sanga Reddy, Medak District.

.....RESPONDENTS.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue appropriate writ, or order or direction or more particularly one in the nature of Writ of Mandamus declaring the impugned action of the respondents in not considering the petitioner's case for the post of LDC as illegal, arbitrary and in violation of principles of natural justice apart from violative of fundamental rights guaranteed under Articles 14 and 16 of the constitution of India with consequential directions to the respondents to forthwith appoint the petitioner in the respondents corporation either to Lower Division Clerk or Typist or to any other suitable post to which the petitioner is eligible.

Counsel for the Petitioner: Mr. THALAPALLY RAJASHEKHAR

Counsel for the Respondents: Mr.S.RAVINDRANATH,

STANDING COUNSEL FOR

CPDCL.

The Court at the admission stage made the following :

ORAL ORDER:

The petitioner questions the order dated 21-11-2003 issued by second respondent rejecting his case for appointment as L.D.C. in the Central Power Distribution Company of Andhra Pradesh Ltd., on the following ground:

"The service certificate furnished by you along with application form were sent to the Vigilance Cell of A.P. Transco/APCPDCL for verification to confirm the genuineness of service certificate and as per the report of Vigilance Cell of A.P. Transco/APCPDCL, the genuineness regarding your services with contractor could not be established due to lack of corroborating evidence."

It is the case of the petitioner that he was working as contract labourer in Manjeera Electrical & Mechanical Engineering Contractor from 20-4-1997 to 30-11-1998. He worked for the works awarded by the respondent Company to the contractor. To the said effect, the contractor issued service certificate dated 1-7-1999, which was countersigned by the Additional Assistant Engineer, A.P. Transco, Kalher. Therefore, as per B.P.Ms.No.36, dated 18-5-1997, he is entitled for absorption in the post of L.D.C. against 50% quota of the existing vacancies as on 18-5-1997. But, his case was not considered on the ground that during the verification of the certificate by the Vigilance Cell, the genuineness of the service certificate could not be established due to lack of corroborating evidence.

The only question that arises for consideration in this writ petition is whether the service certificate issued by the contractor and countersigned by the official of the respondent Company is genuine and valid for considering the case of the petitioner for appointment as L.D.C.?

Similar question was considered by this Court in W.P.No.17163 of 2002 and batch, disposed of on 24-12-2002, in which I have taken a view that the said opinion of the Vigilance Cell of the respondent Company is without any foundation. I have

also taken a view that merely because the contractors have not produced the Attendance Registers, pay rolls, G.P.F. rolls etc., the contract labourers working under the contractors cannot be deprived of their right to be considered for absorption as per B.P.Ms.No.36, dated 18-5-1997. I have also observed that it is for the respondents to verify the certificates produced by the petitioners with reference to the agreements under which the contract labour were engaged by the contractors for the works awarded by the respondent Company. Therefore, the action of the respondents in rejecting the cases of the petitioners based on the report of the Vigilance Cell of the Company that due to lack of corroborative evidence, the service certificates cannot be treated as genuine, is illegal and unwarranted.

Similar proceedings dated 21-11-2002 was also questioned in W.P.No.4785 of 2003. While disposing of the said writ petition on 20-8-2003, the proceedings dated 21-11-2002 was set aside and the respondents were directed to consider the cases of the petitioners therein for absorption in suitable posts without reference to the objections raised in the said proceedings.

Having regard to the facts and circumstances of the case, the impugned proceedings dated 21-11-2003 is set aside. The writ petition is allowed directing the respondents to verify the service certificate issued by the contractor and countersigned by the official of the Company with reference to the agreement under which contract labour are engaged as on 18-5-1997 and consider the case of the petitioner for appointment as L.D.C. or in any other suitable post in accordance with B.P.Ms.No.36, dated 18-5-1997 and pass appropriate orders in accordance with law within a period of two months from the date of receipt of a copy of this order. No order as to costs.

12th August 2004. **(V.ESWARAIAH, J.)**

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To

1.The Chief Managing Director, Andhra Pradesh Central Power Distribution Corporation Ltd., Red Hills, Hyderabad.
2.The Superintending Engineer (Operation) Circle, Medak, Andhra Pradesh Central Power Distribution Corporation Ltd.,

Hqrs. at Sanga Reddy, Medak District.

3.Two C.D. copies.